

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0333.01 Shelby Ross x4510

HOUSE BILL 19-1039

HOUSE SPONSORSHIP

Esgar, Jaquez Lewis, Titone, Valdez A., Galindo, Herod

SENATE SPONSORSHIP

Moreno, Ginal

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING IDENTITY DOCUMENTS FOR TRANSGENDER PERSONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a person born in Colorado who seeks a new birth certificate from the registrar of vital statistics (state registrar) to reflect a change in gender designation must obtain a court order indicating that the sex of the person has been changed by surgical procedure and ordering that the gender designation on the birth certificate be amended, and the person must obtain a court order with a legal name change. The bill repeals that provision and creates new requirements for the issuance of birth certificates in cases of changes to gender designation

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
February 14, 2019

or for an intersex individual.

The bill requires that the state registrar issue a new birth certificate rather than an amended birth certificate. The bill allows a person who has previously obtained an amended birth certificate under previous versions of the law to apply to receive a new birth certificate. A person is not required to obtain a court order for a legal name change in order to obtain a new birth certificate with a change in gender designation.

The bill gives the courts in this state jurisdiction to issue a decree to amend a birth certificate to reflect a change in gender designation for persons born in another state or foreign jurisdiction if the law of such other state or foreign jurisdiction requires a court decree in order to amend a birth certificate to reflect a change in gender designation.

The bill exempts transgender persons from having to submit a public notice of name change.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add 25-2-113.8** as
3 follows:

4 **25-2-113.8. Birth certificate modernization act - new birth**
5 **certificate following a change in gender designation - short title.**

6 (1) THE SHORT TITLE OF THIS SECTION IS THE "2019 BIRTH CERTIFICATE
7 MODERNIZATION ACT".

8 (2) (a) A BIRTH CERTIFICATE ISSUED AT THE TIME OF BIRTH MUST
9 IDENTIFY THE PERSON'S SEX AS MALE OR FEMALE.

10 (b) AN AMENDED BIRTH CERTIFICATE MAY BE ISSUED TO CHANGE
11 THE SEX DESIGNATION OF THE PERSON TO MALE, FEMALE, OR "X"
12 PURSUANT TO THE REQUIREMENTS OF THIS SECTION. "X" IS A DESIGNATION
13 THAT IS NEITHER MALE NOR FEMALE.

14 (3) THE STATE REGISTRAR SHALL ISSUE A NEW BIRTH CERTIFICATE
15 TO A PERSON WHO WAS BORN IN THIS STATE AND WHO HAS A GENDER
16 DIFFERENT FROM THE SEX DENOTED ON THAT PERSON'S BIRTH CERTIFICATE
17 WHEN THE STATE REGISTRAR RECEIVES:

1 (a) A WRITTEN REQUEST FROM THE PERSON, OR FROM THE
2 PERSON'S PARENT, IF THE PERSON IS A MINOR, OR FROM THE PERSON'S
3 GUARDIAN OR LEGAL REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW,
4 TO ISSUE A NEW BIRTH CERTIFICATE WITH A GENDER DESIGNATION THAT
5 DIFFERS FROM THE SEX DESIGNATED ON THE PERSON'S ORIGINAL BIRTH
6 CERTIFICATE; AND

7 (b) (I) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE
8 STATE REGISTRAR, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF
9 THE PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL
10 REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX
11 DESIGNATION ON THE PERSON'S BIRTH CERTIFICATE DOES NOT ALIGN WITH
12 THE PERSON'S GENDER IDENTITY; AND

13 (II) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A
14 STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE STATE
15 REGISTRAR, SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL
16 MEDICAL OR MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD
17 STANDING IN COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING
18 FROM ANOTHER JURISDICTION, STATING THAT:

19 (A) THE MINOR HAS UNDERGONE SURGICAL, HORMONAL, OR
20 OTHER TREATMENT APPROPRIATE FOR THAT PERSON FOR THE PURPOSE OF
21 GENDER TRANSITION, BASED ON CONTEMPORARY MEDICAL STANDARDS,
22 AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER
23 DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

24 (B) THE MINOR HAS AN INTERSEX CONDITION, AND, IN THE
25 PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION
26 SHOULD BE CHANGED ACCORDINGLY.

27 (4) NOTWITHSTANDING SUBSECTION (3) OF THIS SECTION, THE

1 STATE REGISTRAR SHALL ISSUE A NEW BIRTH CERTIFICATE TO A PERSON
2 WITH A COURT ORDER INDICATING THE SEX OR GENDER OF THE PERSON
3 BORN IN THE STATE OF COLORADO HAS BEEN CHANGED.

4 (5) THE STATE REGISTRAR MAY ONLY AMEND A GENDER
5 DESIGNATION FOR AN INDIVIDUAL'S BIRTH CERTIFICATE ONE TIME UPON
6 THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE
7 INDIVIDUAL FOR ADDITIONAL GENDER DESIGNATION CHANGES REQUIRE
8 THE SUBMISSION OF A COURT ORDER INDICATING THAT THE GENDER
9 DESIGNATION CHANGE IS REQUIRED.

10 (6) THE STATE REGISTRAR IS AUTHORIZED TO CONTACT THE
11 MEDICAL OR MENTAL HEALTH CARE PROVIDER TO VERIFY A STATEMENT
12 MADE PURSUANT TO SUBSECTION (3)(b)(II) OF THIS SECTION.

13 (7) IF A NEW BIRTH CERTIFICATE IS ISSUED PURSUANT TO THIS
14 SECTION, THE BIRTH CERTIFICATE MUST REFLECT, OR BE REISSUED TO
15 REFLECT, ANY LEGAL NAME CHANGE MADE BEFORE OR SIMULTANEOUS TO
16 THE CHANGE IN GENDER DESIGNATION, AS LONG AS APPROPRIATE
17 DOCUMENTATION OF THE NAME CHANGE IS SUBMITTED.

18 (8) THE STATE REGISTRAR SHALL NOT REQUEST ANY ADDITIONAL
19 INFORMATION OR RECORDS OTHER THAN THOSE REQUIRED BY SUBSECTION
20 (3) OR (4) OF THIS SECTION TO PROCESS A REQUEST TO MODIFY A GENDER
21 DESIGNATION. THE STATE REGISTRAR SHALL NOT DISCLOSE INFORMATION
22 RELATING TO A GENDER CORRECTION, INCLUDING TO OTHER GOVERNMENT
23 EMPLOYEES, UNLESS REQUIRED IN ORDER TO CONDUCT OFFICIAL BUSINESS.

24 (9) WHEN THE STATE REGISTRAR RECEIVES THE DOCUMENTATION
25 DESCRIBED IN SUBSECTION (3) OF THIS SECTION, THE STATE REGISTRAR
26 SHALL ISSUE A NEW BIRTH CERTIFICATE REFLECTING THE NEW GENDER
27 DESIGNATION AND, IF APPLICABLE, THE PERSON'S NEW NAME.

1 NOTWITHSTANDING SECTION 25-2-115 (1), THE NEW BIRTH CERTIFICATE
2 SUPERSEDES THE ORIGINAL AS THE OFFICIAL PUBLIC RECORD AND MUST
3 NOT BE MARKED AS AMENDED OR INDICATE IN ANY OTHER MANNER THAT
4 THE GENDER DESIGNATION OR NAME ON THE CERTIFICATE HAS BEEN
5 CHANGED.

6 (10) IN THE CASE OF A PERSON WHO IS A RESIDENT OF THIS STATE
7 AND WAS BORN IN ANOTHER STATE OR IN A FOREIGN JURISDICTION, IF THE
8 OTHER STATE OR FOREIGN JURISDICTION REQUIRES A COURT DECREE IN
9 ORDER TO AMEND A BIRTH CERTIFICATE TO REFLECT A CHANGE IN GENDER,
10 THE COURTS IN THIS STATE HAVE JURISDICTION TO ISSUE SUCH A DECREE.

11 **SECTION 2.** In Colorado Revised Statutes, 25-2-115, **amend** (1);
12 **and repeal** (4) as follows:

13 **25-2-115. Alteration of reports and certificates - amended**
14 **reports and certificates.** (1) A vital statistics report or certificate shall
15 not ever be altered in any way except in accordance with this article 2 and
16 applicable rules. ~~The~~ EXCEPT FOR AMENDED BIRTH CERTIFICATES ISSUED
17 PURSUANT TO SECTION 25-2-113.8, THE date of alteration and a summary
18 description of the evidence submitted in support of the alteration must be
19 endorsed on or made a part of each vital statistics certificate that is
20 altered. Every vital statistics report or certificate that is altered in any way
21 must be marked "Amended", ~~except~~ FOR AMENDED BIRTH CERTIFICATES
22 ISSUED PURSUANT TO SECTION 25-2-113.8; the birth report or certificate
23 of a child altered by the addition of a father's name pursuant to section
24 25-2-112 (3), in which case, upon request of the parents, the surname of
25 the child shall be changed on the report and certificate to that of the
26 father; ~~and also except~~ OR additions and minor corrections made within
27 one year after the date of the statistical event as may be specified by

1 applicable rules. A child's surname may be changed upon affidavit of the
2 parent that the change is being made to conform the child's surname to the
3 parent's legal surname.

4 (4) ~~Upon receipt of a certified copy of an order of a court of~~
5 ~~competent jurisdiction indicating that the sex of an individual born in this~~
6 ~~state has been changed by surgical procedure and that such individual's~~
7 ~~name has been changed, the certificate of birth of such individual shall be~~
8 ~~amended as prescribed by regulation.~~

9 **SECTION 3.** In Colorado Revised Statutes, 42-2-107, **amend**
10 **(2)(a)** as follows:

11 **42-2-107. Application for license or instruction permit -**
12 **anatomical gifts - donations to Emily Keyes - John W. Buckner organ**
13 **and tissue donation awareness fund - legislative declaration - rules -**
14 **annual report - repeal.** (2) (a) (I) Every application shall state the full
15 name, date of birth, sex, and residence address of the applicant; briefly
16 describe the applicant; be signed by the applicant with such applicant's
17 usual signature; have affixed thereon the applicant's fingerprint; and state
18 whether the licensee has ever been licensed as a minor driver or driver
19 and, if so, when and by what state or country and whether any such
20 license has ever been denied, suspended, or revoked, the reasons therefor,
21 and the date thereof. These statements shall be verified by the applicant's
22 signature thereon.

23 (II) THE DEPARTMENT SHALL ISSUE A NEW DRIVER'S LICENSE OR
24 IDENTITY DOCUMENT TO A PERSON WHO HAS A GENDER DIFFERENT FROM
25 THE SEX DENOTED ON THAT PERSON'S DRIVER'S LICENSE OR IDENTITY
26 DOCUMENT WHEN THE DEPARTMENT RECEIVES:

27 (A) A STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE

1 DEPARTMENT, FROM THE PERSON, OR FROM THE PERSON'S PARENT, IF THE
2 PERSON IS A MINOR, OR FROM THE PERSON'S GUARDIAN OR LEGAL
3 REPRESENTATIVE, SIGNED UNDER PENALTY OF LAW, CONFIRMING THE SEX
4 DESIGNATION ON THE PERSON'S DRIVER'S LICENSE OR IDENTITY DOCUMENT
5 DOES NOT ALIGN WITH THE PERSON'S GENDER IDENTITY; AND

6 (B) IF THE PERSON IS A MINOR UNDER THE AGE OF EIGHTEEN, A
7 STATEMENT, IN A FORM OR FORMAT DESIGNATED BY THE DEPARTMENT,
8 SIGNED UNDER PENALTY OF LAW, FROM A PROFESSIONAL MEDICAL OR
9 MENTAL HEALTH CARE PROVIDER LICENSED IN GOOD STANDING IN
10 COLORADO OR AN EQUIVALENT LICENSE IN GOOD STANDING FROM
11 ANOTHER JURISDICTION, STATING THAT THE MINOR HAS UNDERGONE
12 SURGICAL, HORMONAL, OR OTHER TREATMENT APPROPRIATE FOR THAT
13 PERSON FOR THE PURPOSE OF GENDER TRANSITION, BASED ON
14 CONTEMPORARY MEDICAL STANDARDS, AND, IN THE PROVIDER'S
15 PROFESSIONAL OPINION, THE MINOR'S GENDER DESIGNATION SHOULD BE
16 CHANGED ACCORDINGLY, OR THE MINOR HAS AN INTERSEX CONDITION,
17 AND, IN THE PROVIDER'S PROFESSIONAL OPINION, THE MINOR'S GENDER
18 DESIGNATION SHOULD BE CHANGED ACCORDINGLY; OR

19 (C) A NEW BIRTH CERTIFICATE ISSUED PURSUANT TO SECTION
20 25-2-113.8.

21 (III) THE DEPARTMENT MAY ONLY AMEND A SEX DESIGNATION FOR
22 AN INDIVIDUAL'S DRIVER'S LICENSE OR IDENTITY DOCUMENT ONE TIME
23 UPON THE INDIVIDUAL'S REQUEST. ANY FURTHER REQUESTS FROM THE
24 INDIVIDUAL FOR ADDITIONAL SEX DESIGNATION CHANGES REQUIRE THE
25 SUBMISSION OF A COURT ORDER INDICATING THAT THE SEX DESIGNATION
26 CHANGE IS REQUIRED.

27 (H) (IV) In addition to the information required by subparagraph

1 ~~(f) of this paragraph (a)~~ SUBSECTION (2)(a)(I) OF THIS SECTION, every
2 application shall include the opportunity for the applicant to self-identify
3 his or her race or ethnicity. The race or ethnicity information that may be
4 identified on the application shall not be printed on the driver's license but
5 shall be maintained in the stored information as defined by section
6 42-2-114 (1)(b). That information must be accessible to a law
7 enforcement officer through magnetic or electronic readers.

8 **SECTION 4.** In Colorado Revised Statutes, 13-15-102, **add** (4)
9 as follows:

10 **13-15-102. Publication of change.** (4) A PETITIONER NEED NOT
11 GIVE PUBLIC NOTICE OF A NAME CHANGE AS REQUIRED BY SUBSECTION (1)
12 OF THIS SECTION IF THE PETITIONER IS CHANGING THE PETITIONER'S NAME
13 TO CONFORM WITH THE PETITIONER'S GENDER IDENTITY.

14 **SECTION 5. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.